



IN LOVING MEMORY OF

William "Billy" Farrow Williams
January 17, 1929 - May 3, 2019

&

Calvin Blythe Davis
May 1, 1955 - June 5, 2018

PLEASE JOIN US AS THE COUNTY OF HYDE
RECOGNIZES THE EXEMPLARY COMMUNITY SERVICE OF THESE
TWO MEN FOR THEIR INSTRUMENTAL WORK IN PROTECTING AND
ENRICHING THE LIVES OF OTHERS IN THIS COMMUNITY.

Monday, June 3, 2019 @ 6 PM

Hyde County Government Center | Multi-Purpose Room

30 Oyster Creek Road

Swan Quarter, North Carolina 27885

Reception | 5:30 PM

Presentation | 6 PM

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: Chairman Earl Pugh, Jr.
Attachment: No

ITEM TITLE: OPENING

SUMMARY: Call to Order
Opening Prayer
Pledge of Allegiance

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: Chairman Earl Pugh, Jr.
Attachment: Yes

ITEM TITLE: CONSIDERATION OF AGENDA

SUMMARY: Attached is the proposed Agenda for the June 3, 2019 Regular Meeting of the Hyde County Board of Commissioners.

RECOMMEND: Review, Amend and Approve.

MOTION MADE BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

AGENDA

HYDE COUNTY BOARD OF COMMISSIONERS' REGULAR MEETING

MONDAY, JUNE 3, 2019 – 6:00 PM

CALL TO ORDER

CONSIDERATION OF AGENDA

CONSIDERATION OF MINUTES

May 6, 2019

- Regular Meeting Minutes

May 13 – 15, 2019

- Special Budget Workshop Meeting

PUBLIC HEARING

- FY2019-2020 Hyde County Budget Manager Noble

PRESENTATIONS

- 1) Resolution In Memory of Billy Williams Manager Noble
- 2) Resolution In Memory of Blythe Davis Manager Noble
- 3) CDBG Bid Award for HMGP and FY-15 FMA Chris Hilbert
- 4) Tax Collections Report – May 2019 Linda Basnight

RECOGNITION OF EMPLOYEE/ VOLUNTEER/ FRIEND OF HYDE COUNTY

PUBLIC COMMENTS

Public Comments are a time for the public to make comments to the County Commissioners. Comments should be kept to three (3) minutes or less and comments should be directed to the entire Board and not to individual members, the staff or to other members of the public. Comments requesting assistance will typically be referred to the County Manager for follow-up or for Board action at a future meeting.

ITEMS OF CONSIDERATION

1) Ordinances – Resolutions – Proclamations

- Resolution Against Petition for Rulemaking Prohibiting Shrimp Trawls Manager Noble
- Resolution Against Amendment 2 Southern Flounder Manager Noble
- Resolution to Appoint Review Officers Justin Gibbs

2) Appointments

- Hyde County Airport Board Re-appointments & Amendment to Bylaws Jane Hodges
- Jury Commission Manager Noble

3) Ocracoke Fireworks Permit Approval Justin Gibbs

4) DHHS/DSS Written Agreement Laurie Potter

5) Bench Sponsorship Update Manager Noble

6) Creation of Code Enforcement/ Maintenance Director Position Manager Noble

7) July 5th Closing of County Offices Manager Noble

8) Approval of Tax Advertisement Justin Gibbs

BUDGET MATTERS

Department of Social Services

- IV-E Foster Care \$ 4,000.00
- SAA-SAD Drafts \$10,000.00
- IV-E Foster Care \$20,000.00
- Medicaid Draft \$10,000.00
- CAPS Salaries \$ 20.00
- CAPS Retirement \$ 50.00
- CAPS Retirement \$ 50.00
- In-Home Chore Title III \$ 6,000.00
- Travel \$ 600.00

Soil & Water

- Public Education \$ 700.00

MANAGEMENT REPORTS

The Commissioners, County Manager and Assistant County Manager will share with the public their various activities and ideas for continuous improvement of government services to the citizens.

PUBLIC COMMENTS

The public is invited to use this time to make comments to the County Commissioners on items discussed during this meeting and/or matters not discussed earlier in the meeting.

CLOSED SESSION (discussion and possible action if required)

ADJOURN

SUPPLEMENTAL INFORMATION

Department Reports

- 1) Tax Department (requires signature)
- 2) Inspections
- 3) **Human Resources**
- 4) IT Department
- 5) Health Department
- 6) Department of Social Services
- 7) Senior Center
- 8) Soil & Water
- 9) Cooperative Extension
- 10) Airport

Informational Items

- 1) Public Notice – Special Meetings
- 2) Announcement – Approved Applications for 2019 Volunteer Fire Department Fund
- 3) News Article – State Audit Finds \$100 Million in Medicaid Errors at DHHS
- 4) Orange County – Resolution of Support for Specific Legislation
- 5) Article – Hyde County Rolls Out New Tax System
- 6) News Article – Historical Marker To Commemorate Hyde County Civil Rights Struggle
- 7) News Article – Farmers, Experts Partner
- 8) News Article – Governor’s Award for Volunteer Service
- 9) News Article – New Property Tax Software
- 10) Insurance Services Office

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: Lois Stotesberry, Clerk
Attachment: Yes

ITEM TITLE: CONSIDERATION OF MINUTES

SUMMARY: Attached are the May 6, 2019 Regular Meeting Minutes and May 13, 2019 Budget Workshop Meeting Minutes of the Hyde County Board of Commissioners.

RECOMMEND: Review, Amend and Approve.

MOTION MADE BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

1 Regular Meeting Minutes

2
3 **Hyde County Board of Commissioners**
4 **Monday, May 6, 2019**

5 Chairman Earl Pugh, Jr. expressed condolences to the family of Ms. Evelyn Campbell (mother of former
6 Maintenance Director Kerry Campbell who passed away on February 14th) and to the family of Mr. Billy Williams
7 (former County Commissioner who passed away on May 3rd).
8

9 Following opening prayer by Commissioner Swindell and Pledge of Allegiance, Chairman Pugh called the Regular
10 Meeting of the Hyde County Board of Commissioners to order at 6:10p.m., on Monday, May 6, 2019 in the Hyde
11 County Government Center Multi-Use Room and the Ocracoke Community Center using electronic conferencing
12 equipment.
13

14 The following members were present on the mainland: Chairman Earl Pugh, Jr.; Vice-Chairman Tom Pahl,
15 Commissioners Ben Simmons, Shannon Swindell and James Topping; County Manager Kris Cahoon Noble;
16 Attorney Franz Holscher; Clerk to the Board Lois Stotesberry and members of the public.
17

18 IT Director Donnie Shumate, Economic Development Consultant Bill Rich and members of the public were present
19 on Ocracoke.
20

21 Emergency Services Director Justin Gibbs ran the electronic conferencing equipment on the Mainland and Donnie
22 Shumate ran the electronic conferencing equipment on Ocracoke.
23

24 **CONSIDERATION OF AGENDA:**
25

26 Commissioner Swindell moved to approve the Monday, May 6, 2019 Meeting Agenda as presented by the Clerk
27 with addition of "Proclamation – Older Americans Month", "Proclamation – EMS Week" and Informational Item
28 #14 – NC Historical Highway Marker; and with correction at #9 – FY2018-2019 to FY2019-2020. Commissioner
29 Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell
30 and Topping; Nays – None; Absent or not voting – None.
31

32 **CONSIDERATION OF MINUTES:**
33

34 **April 1, 2019 – Board of Equalization & Review Meeting Minutes**

35 Commissioner Swindell moved to approve the Monday, April 1, 2019 Board of Equalization & Review Meeting
36 Minutes as presented by the Clerk. Commissioner Pahl seconded the motion. The motion passed on the following
37 vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.
38

39 **April 1, 2019 – Joint Board of Education Meeting Minutes**

40 Commissioner Pahl moved to approve the Monday, April 1, 2019 Joint Board of Education Meeting Minutes as
41 presented by the Clerk. Commissioner Swindell seconded the motion. The motion passed on the following vote:
42 Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.
43

44 **April 1, 2019 – Regular Meeting Minutes**

45 Commissioner Simmons moved to approve the Monday, April 1, 2019 Regular Meeting Minutes as presented by
46 the Clerk with revision on Page 4 – Line 12 – OTTDA Board to *fill the unexpired term of Wayne Clark who*
47 *resigned* and on Page 6 – Line 27 – rehabilitating the existing structure *and also continue to look into ways to*
48 *restore the building and not tear it down*. Commissioner Swindell seconded the motion. The motion passed on
49 the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting –
50 None.
51

52 **PRESENTATIONS:**
53

54 **2019 Governor's Award for Volunteer Service**

55 Chairman Pugh presented the 2019 Governor's Volunteer Service Award and a pin to Mr. Jerald Craddock. Mr.
56 Craddock manages the Food Bank. He is active in the community and donates time, money and spiritual assistance
57 to families in the community. *"Governor's Award for Volunteer Service is to certify that Jerald Craddock is*
58 *hereby awarded the highest designation of appreciation for distinguished volunteer service to the People and the*
59 *State of North Carolina, and is to be granted and extended all honors and courtesies provided by this Office,*
60 *entitled thereunto by this certificate of recognition and appreciation". Award Signed by Governor Roy Cooper.*
61

1 **Plaques In Memory of Kerry Campbell and Jerry Hardison**

2 County Manager Kris Cahoon Noble presented plaques in memory of Kerry V. Campbell (February 2019) and
3 Jerry O. Hardison (September 2018) to the Board of Commissioners and to Mr. Hardison's family. Mr. Campbell's
4 plaque was presented to his wife and son earlier in the day. The County will publically display the plaques in a
5 prominent location in the Hyde County Government Center.
6

7 **TR-407 Daily Distribution Tax Report**

8 Tax Administrator Linda Basnight presented the March 2019 Daily Distribution Tax Report.
9

10 Commissioner Pahl moved to approve the TR-407 Report as presented by Ms. Basnight. Commissioner Swindell
11 seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and
12 Topping; Nays – None; Absent or not voting – None.
13

14 **PUBLIC COMMENT:**

15 Hearing no comment from the public, Chairman Pugh continued the meeting.
16

17 **ITEMS OF CONSIDERATION:**

18
19 **Proclamations:**

20 **Proclamation National Nurses Week – May 6 – 12, 2019**

21
22 Health Director Luana Gibbs requested the Board of Commissioners ask residents of Hyde County to join them in
23 honoring all County nurses who care for all of us; and, celebrate registered nurses' accomplishments and efforts to
24 improve our health care system, and show our appreciation for the nation's registered nurses not just during this
25 week, but at every opportunity throughout the year.
26

27 Commissioner Swindell moved to adopt "Proclamation – National Nurses Week May 6 – 12, 2019".
28 Commissioner Pahl seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons,
29 Swindell and Topping; Nays – None; Absent or not voting – None.

30 *Clerk's Note: A copy of "Proclamation National Nurses Week – May 6 – 12, 2019" is attached herewith as Exhibit A and*
31 *incorporated herein by reference.*

32 **Proclamation Older Americans Month – May 2019**

33 County Manager Kris Cahoon Noble presented Proclamation – Older Americans Month – May 2019. Ms. Noble
34 reported Hyde County is committed to strengthening our community by connecting with and supporting older
35 adults, their families and caregivers; and, acknowledging their many valuable contributions to society. All residents
36 are urged to take time during this month to recognize older adults and the people who serve them as essential and
37 valuable members of our community.
38

39 Commissioner Swindell moved to adopt "Proclamation – Older Americans Month - May 2019". Commissioner
40 Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell
41 and Topping; Nays – None; Absent or not voting – None.
42

43 *Clerk's Note: A copy of "Proclamation Older Americans Month – May, 2019" is attached herewith as Exhibit B and*
44 *incorporated herein by reference.*

45 **Proclamation EMS Week – May 19 – 25, 2019**

46 EM Director Justin Gibbs presented Proclamation EMS Week – May 19 – 25, 2019, with the theme
47 "EMS Strong: Stronger Together". Mr. Gibbs reported the emergency medical services system consists of first
48 responders, emergency medical technicians, paramedics, emergency medical dispatchers, police officers, educators,
49 administrators, emergency nurses, emergency physicians, trained members of the public and other out of hospital
50 medical care providers. It is appropriate to recognize the value and the accomplishments of emergency medical
51 service providers by designating Emergency Medical Services Week – May 19 – 25, 2019.
52

53 Commissioner Pahl moved to adopt "Proclamation EMS Week – May 19 – 25, 2019". Commissioner Swindell
54 seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and
55 Topping; Nays – None; Absent or not voting – None.
56

57 *Clerk's Note: A copy of "Proclamation EMS Week – May 19 - 25, 2019" is attached herewith as Exhibit C and*
58 *incorporated herein by reference.*

59 **Administrative Guidelines and Policies/ CDBG Required Documentation**

60 County Manager Kris Cahoon Noble requested approval and adoption of administrative guidelines and
61 policies related to the Hyde County CDBG-NR Grant. Ms. Noble reported the project authorized is the

Community Development Block Grant Neighborhood Revitalization (CDBG-NR) Program described in the work statement contained in the grant agreement and funding approval (Grant #17-C-2989) between Hyde County and the North Carolina Department of Commerce, Rural Economic Development Division.

Commissioner Pahl moved to approve required documentation related to the Hyde County CDBG-NR Grant and to adopt: 1) Resolution Approving Administrative Guidelines and Policies/CDBG-NR Program; 2) CDBG-NR Program Project Budget Ordinance; and, 3) CDBG-NR Financial Management Resolution. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "Resolution Approving Administrative Guidelines and Policies/CDBG-NR Required Documentation" is attached herewith as Exhibit D and incorporated herein by reference.

Clerk's Note: A copy of "Hyde County CDBG Neighborhood Revitalization (CDBG-NR) Program Project Budget Ordinance" is attached herewith as Exhibit E and incorporated herein by reference.

Clerk's Note: A copy of "Hyde County CDBG Neighborhood Revitalization (CDBG-NR) Financial Management Resolution" is attached herewith as Exhibit F and incorporated herein by reference.

Lawn Maintenance & Cleaning Contract – Hyde Davis Center

County Manager Kris Cahoon Noble requested renewal of the County's annual contract (expires June 30, 2019) for lawn maintenance and cleaning services at the Hyde Davis Center. Mr. Michael Adams has been providing these services under the contract since 2015.

Commissioner Simmons moved to approve renewal of the Hyde Davis Center Lawn Maintenance & Cleaning Contract as presented with no changes in the terms or requirements. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Ocracoke Occupancy Tax Board Recommendations

Finance Officer Corrinne Gibbs requested approval of the Ocracoke Occupancy Tax Board recommendations for appropriations to be made from the Ocracoke Occupancy Tax Fund during the 2019/2020 Fiscal Year as submitted by Ocracoke Occupancy Tax Board Chairman Bob Chestnut.

Ocracoke Friends of Library	\$ 3,165.00
Ocracoke School Arts Week	\$ 4,500.00
Hyde County Sheriff Department	\$ 7,500.00
Hyde County/ Lobbyist	\$ 10,000.00
Ocracoke School/ Gym Floor Covering	\$ 19,000.00
Ocracoke Civic & Business Association/ Fireworks	\$ 26,500.00
Ocracoke Alive	\$ 28,000.00
Ocracoke Community Center	\$ 29,570.00
Ocracoke Health Center	\$ 38,600.00
Ocracoke Preservation Society	\$ 47,490.00
North Carolina Coastal Land Trust	\$100,000.00
Ocracoke Civic & Business Association/ Events	\$ 61,061.00
Ocracoke Volunteer Fire Department	\$ 54,426.00
Ocracoke Foundation	\$ 54,426.00
TOTAL	\$500,000.00

Commissioner Pahl moved to approve appropriations to be made from the Ocracoke Occupancy Tax Fund during FY 2019-2020 as recommended. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

Mainland Occupancy Tax Board Recommendations

Finance Officer Corrinne Gibbs requested approval of the Mainland Occupancy Tax Board recommendations for appropriations to be made from the Mainland Occupancy Tax Fund during the 2019/2020 Fiscal Year as submitted by Mainland Occupancy Tax Board Chairman Karen Meekins. Total available funding is \$10,711.04.

MATTIE Art Center	\$ 2,500.00
Hyde County Chamber of Commerce	\$ 2,500.00
TOTAL	\$ 5,000.00

Commissioner Swindell moved to approve appropriations to be made from the Mainland Occupancy Tax Fund during FY 2019-2020 as recommended. Commissioner Simmons seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

1 **Summer Flex Schedule**

2 Human Resources Officer Tammy Blake requested approval of a Summer Flex Schedule for employees. Summer
3 Flex-time is a work schedule which allows non-rotating shift employees to work hours that are not within the
4 standard 8:00AM to 5:00 PM, Monday – Friday range, while maintaining a high level of service during the
5 County's peak operating hours. The 4 x 4 schedule allows employees to work four-days for 10-hours each day
6 totaling 40 hours per week with the fifth day off. Ms. Blake reported the summer flex schedule has been approved
7 for the past nine years.

8
9 Commissioner Pahl moved to approve Summer Flex Time from Memorial Day (May 27th) to Labor Day
10 (September 2nd) with accountability approved by each department head and with timesheets completed by all
11 County employees. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes
12 – Pugh, Pahl, Simmons and Swindell; Nays – Topping; Absent or not voting – None.

13
14 **Hyde County FY 2019-2020 Budget – Spending Freeze**

15 Finance Officer Corrinne Gibbs requested a spending freeze for County departments. She reported in order to
16 complete the FY 2019-2020 Hyde County Budget a spending freeze needs to be set. Ms. Gibbs recommended \$100
17 for all county departments through the end of FY 2018-2019, effective May 6, 2019. Requests exceeding \$100 will
18 be reviewed by the County Manager and approved as she deems necessary. She noted the Health Department and
19 Department of Social Services will not be affected by the freeze.

20
21 Commissioner Simmons moved to approve a spending freeze at \$100 through the end of FY 2018-2019, effective
22 May 6, 2019, as recommended. Commissioner Swindell seconded the motion. The motion passed on the following
23 vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

24
25 **Hyde County FY 2019-2020 Budget Message**

26 County Manager Kris Cahoon Noble delivered her FY 2019-2020 Hyde County Budget Message. The proposed
27 budget was prepared in accordance with the provisions of GS159-7, the Local Government Budget and Fiscal
28 Control Act. A public hearing will be scheduled at the Board of Commissioners next regularly scheduled meeting
29 on June 3, 2019.

30
31 Ms. Noble reported the tax collection rate has been a dominant factor in the preparation of the proposed budget and
32 has continued to decrease to a position that has cut available revenues to balance the budget by over \$500,000.
33 Like the past five years the upcoming budget year will be extremely conservative in regard to expenditures with a
34 clear plan to correct this downward trend in revenue receipts for ad valorem taxes. In this proposal, Hyde County
35 will borrow from the General Fund this upcoming year in an amount determined by the Board, after scheduled
36 budget workshops, but realistically expecting to approve between \$1 - \$1.5 million budgeted from fund balance,
37 again with a clear and concise plan of action designed to stop the trend of decreased revenues allowing funding
38 appropriations necessary to carry out key services for our citizenry and stopping the trend of utilizing our fund
39 balance. This appropriation from fund balance should still leave the County in a healthy position of 25% to 30%
40 after our FY18-19 audit, far higher than state standards, comparative with other coastal counties and robust enough
41 to withstand any emergency within the coming year.

42
43 In an effort to address the loss of revenues due to the decreasing tax collection rate, Hyde County has implemented
44 Farragut tax collection software system and the ability to accept credit card transactions online, in-house and over
45 the phone, debt setoff and legal intervention. This system is more efficient, gives management and staff more
46 capability to analyze and address collection statistics through data availability and the ease of reporting. A formal
47 payment plan policy that addresses the age and amount of debts with mathematical and unbiased calculations
48 dictating down payments and a payment schedule will get the taxpayer out of debt in a timely manner. The Register
49 of Deeds Office and the Building Inspections Office will be integrated into the Farragut system over the next year.

50
51 Hyde County tax collection rate will be one of the key focuses of management and staff over the next budget year
52 and following years with dedication to increasing our current rate of 93.6% to a goal rate of 98% by 2024. Until
53 then, we will work to maintain services with limited budgets.

54
55 **Key Goals Moving Forward:**

- 56 • Continued Dedication to Water and Flood Control
- 57 • Hazard Resilient Infrastructure and Transportation
- 58 • Economic Development Partnerships and Small Business Development
- 59 • Continuing to do More with Less

60
61 Ms. Noble presented two budget scenarios for commissioners' consideration.
62

1 **Manager's Proposed Budget A** makes cuts to our expenditures that through careful spending will not affect
2 governmental services and staffing next fiscal year. The result is a reduction of our current fund balance by
3 \$1,533,815.07.

4
5 **Manager's Proposed Budget B** makes more significant cuts that will affect our staffing and support to outside
6 agencies but will not cut nonessential services completely. The result is a reduction of our current fund balance by
7 \$1,197,423.93.

8
9 **As Budget Officer, Ms. Noble recommended Proposed Budget A.** The plan to increase ad valorem revenues
10 moving forward is solid and well thought out. Ms. Noble believes we have the staff capacity and willingness to
11 make it happen. Trends in the final months of this fiscal year solidify that assumption. She reported Hyde County
12 is in good financial condition overall. In conclusion, she believes the County's fund balance will continue to be
13 healthy with either appropriation being utilized.

14
15 **Call for Public Hearing FY 2019-2020 Budget**

16 Commissioner Simmons moved to hold public hearing for the Hyde County FY 2019-2020 proposed budget in
17 order to answer questions and receive comments from the public on Monday, June 3, 2019; and, to call a special
18 meeting for budget approval on Monday, June 24, 2019. Commissioner Pahl seconded the motion. The motion
19 passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not
20 voting – None.

21
22 **Budget Revisions:**

23 **Planning**

24 Equipment \$ 1,000.00

25
26 **Sheriff's Department**

27 O/T – Law Officers \$17,000.00

28
29 **Department of Social Services**

30 In-Home Chore – Funding Allocation \$ 4,874.00

31 LIEAP – State Funds \$ 6,138.00

32 Contract Consultant \$ 7,000.00

33 CAPS – Retirement Expense \$ 300.00

34 CAPS – Salaries \$ 2,000.00

35
36 **Hyde Soil & Water**

37 Public Education – Site Visit & Drainage Discussion \$ 500.00

38
39 **Health Department**

40 Family Planning – Additional Revenue Received \$ 8,085.00

41 Maternal Health – Postage & Medical Supplies \$ 530.00

42 Adult Health – Postage \$ 100.00

43 Child Health – Postage \$ 100.00

44 Communicable Disease – Travel \$ 117.30

45 Food & Lodging – Travel \$ 500.00

46
47 Commissioner Simmons moved to approve the S&W, Sheriff's Department and Emergency Management budget
48 transfers as presented. Commissioner Swindell seconded the motion. The motion passed on the following vote:
49 Ayes – Pugh, Pahl, Simmons and Swindell; Nays – None; Absent or not voting – Topping.

50
51 **Management Reports**

52 **Chairman Pugh** – attended a NCDOT meeting where the Ocracoke Tram received honorable mention; the Seafood
53 meeting in Raleigh where he met with Representative Hanig and Senator Stineburg and discussed Hurricane
54 Matthew Relief funds, Davis Roof Project and Fairfield Drainage; the Engelhard and Ocracoke Medical Center
55 Board meeting; the Board of Equalization & Review (E&R) meeting; the 4H Livestock Show; the Albemarle
56 Commission meeting; the Mainland Tourism Summit; and, met with Commissioner Topping and Attorney Holscher.

57
58 **Vice-chairman Pahl** – discussed his concerns about the decrease in collections and property values in FY18-19. He
59 attended Ocracoke 5K – 10K Race where 400 (+) runners participated; Ocracoke Fishing Tournament where 70 (+)
60 people participated; and, a Decoy Carvers event. He plans to attend the British Cemetery event next weekend. Mr.
61 Pahl reported the Ocracoke ball team won regionally and the ballfield committee made its final payment.

1 Commissioner Pahl attended the Ocracoke Tourism Authority FY19-20 budget meeting; Waterways Commission
2 meeting; annual Ocracoke Occupancy Tax Board meeting and the JCPC meeting. He reported the NC DOT road
3 marking project and the Island Inn projects are moving along and fundraising is ongoing to restore the old building.

4
5 Commissioner Swindell – reported this is a busy time for building. He attended the Legislative meeting in Raleigh.

6
7 Commissioner Simmons – discussed his concerns about the decreasing fund balance and drainage/dike projects he
8 has privately funded with no assistance from the State. He will not be available for budget workshop meetings on
9 the 14th and 15th due to other commitments.

10
11 Commissioner Topping – reported meeting with NC DOT about drainage matters, highway, tiles, potholes and
12 enlarging the EMS station driveway. Mr. Topping attended an Oyster Roast at Pungo where re-opening the Fairfield
13 Cotton Gin was discussed; the Chamber of Commerce dinner where restrooms upgrade is needed on Mattamuskeet
14 Lake Road and restroom installation on Mainland Hyde and Ocracoke Island; and, the Mattamuskeet Early College
15 High School for Heritage Day events. He attended the Hyde Transit budget meeting and the St. Patrick's Day
16 Breakfast at the Senior Center and assisted with delivering meals on wheels in Fairfield.

17
18 County Manager Kris Cahoon Noble – presented update on projects and activities attended during the month. Ms.
19 Noble's calendar was provided for the month of April, 2019.

20
21 Commissioner Pahl moved to conduct budget workshop meetings beginning on May 13 and continuing through May
22 17 as deemed necessary by the Board. Commissioner Simmons seconded the motion. The motion passed on the
23 following vote: Ayes – Pugh, Pahl, Simmons and Swindell; Nays – None; Absent or not voting – Topping.

24
25 **Public Comment**

26 Connie Leinbach, Ocracoke – requested clarification of the budget workshop meeting dates and time.

27
28 County Manager Kris Cahoon Noble confirmed the meeting schedule would be posted on the county website.

29
30 Wallace Gibbs, New Holland – discussed drainage concerns in his community and concerns about dispatch.

31
32 Commissioner Simmons – recommends re-establishment of Hyde County Drainage District No. 1.

33
34 Seldon Taylor, Swan Quarter – discussed vicious dogs in his neighborhood. He requested animal control be
35 enforced.

36
37 Sallie Midgette, Swan Quarter – reported vicious dogs on Church Street killed her chickens (14). She also request
38 animal control be enforced.

39
40 **Closed Session**

41 Commissioner Simmons moved to enter into closed session, at 8:30p.m., in accordance with NCGS143A-318.11
42 (a) (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or
43 conditions of initial employment of an individual public officer or employee or prospective public officer or
44 employee. Commissioner Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh,
45 Pahl, Simmons, Swindell and Topping; Nays – None; Absent or not voting – None.

46
47 Commissioner Simmons moved to come out of closed session at 9:05p.m. Commissioner Swindell seconded the
48 motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons, Swindell and Topping; Nays –
49 None; Absent or not voting – None.

50
51 No action taken.

52
53 **Adjourn**

54 Commissioner Simmons moved to adjourn the meeting. Commissioner Swindell seconded the motion. The motion
55 passed on the following vote: Ayes – Pugh, Pahl, Simmons and Swindell; Nays – None; Absent or not voting –
56 Topping.

57
58 The meeting adjourned at 9:10p.m.

59
60 Respectfully submitted:

61
62 Minutes approved on the 3rd day of June, 2019.

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16

Attest:

Lois Stotesberry, CMC, NCCCC
Clerk, Hyde County Board of Commissioners

Earl Pugh, Jr.
Chair, Hyde County Board of Commissioners

- Attachments**
Exhibit A: *“Proclamation National Nurses Week – May 6 – 12, 2019”*
Exhibit B: *“Proclamation Older Americans Month – May, 2019”*
Exhibit C: *“Proclamation EMS Week – May 19 - 25, 2019”*
Exhibit D: *“Resolution Approving Administrative Guidelines and Policies/CDBG-NR Required Documentation”*
Exhibit E: *“Hyde County CDBG Neighborhood Revitalization (CDBG-NR) Program Project Budget Ordinance”*
Exhibit F: *“Hyde County CDBG Neighborhood Revitalization (CDBG-NR) Financial Management Resolution”*

DRAFT

Special Budget Meeting Minutes (Reconvened)

**Hyde County Board of Commissioners
Wednesday, May 15, 2019**

Following opening prayer by Commissioner Simmons, Chairman Pugh moved to reconvene the Special Meeting of the Hyde County Board of Commissioners at 8:30a.m., on Wednesday, May 15, 2019 in the Hyde County Government Center Multi-Use Room and the Ocracoke Community Center using electronic conferencing equipment.

The following members were present on the mainland: Chairman Earl Pugh, Jr.; Commissioners Ben Simmons, Shannon Swindell and James Topping; County Manager Kris Cahoon Noble; Finance Officer Corrinne Gibbs; Emergency Services Director Justin Gibbs; Tax Administrator Linda Basnight; Utilities Director Clint Berry; Solid Waste Director James Blount; and, Clerk to the Board Lois Stotesberry.

Vice-Chairman Tom Pahl was present on Ocracoke.

EXPENDURES

Ad Valorem Taxes

Tax Administrator Linda Basnight reported North Carolina now collects all DMV taxes. Line 10.3010.0010 – DMV-Prior totals \$ 0.00.

Ocracoke Special Mosquito Tax

Commissioner Tom Pahl reported the Mosquito Tax Board had requested a \$0.5 increase. He requested a report of total earned with the increase. Line 40.3010.9100 – Current Tax will increase from \$45,333.00 to \$93,716.00.

Water / Sewer System

Utilities Director Clint Berry reported Fund 60 – Water / Sewer remains the same as the past twelve years. This is an enterprise fund and no tax dollars are used. Mr. Berry reported currently 2300 customers are being served.

Solid Waste

Director James Blount reported mainland Hyde County solid waste is carried to Bertie County at a cost of \$47 per ton and Ocracoke solid waste is carried to Dare County at a cost of \$65 per ton. Red Box is being used on Ocracoke job sites. Rent on these containers is going up. Mr. Blount will prepare a report breaking out all solid waste expenses on Ocracoke and on the mainland.

The Solid Waste Department has 2 F/T and 2 P/T positions. Mr. Blount will investigate options discussed to retain employees at the Ocracoke site.

1 **Tax Department**

2 County Manager Kris Noble reported Justin Gibbs and Lois Stotesberry have been cross-training on the
3 Farragut tax collection system. Justin Gibbs and Lois Stotesberry will continue to learn the Farragut Tax
4 Collection Software and will assist in the Tax Department. Annual salaries will not change but each will
5 be split in accordance with time worked in departments. Justin Gibbs will be paid 60% - Emergency
6 Management and 40% - Tax Department. Lois Stotesberry will be paid 33.3% - Emergency
7 Management; 33.3% - Clerk to the Board of Commissioners; and, 33.3% - Tax Department.

8 **In Conclusion**

9 County Manager Kris Noble believes revenue is our main goal in fiscal year 2019-2020. Ms. Noble
10 reported that increasing ad valorem revenues will continue to improve the County's fund balance with
11 implementation of appropriation A. She also reported Manager's Proposed Budget A makes cuts to our
12 expenditures that through careful spending will not affect governmental services and staffing next fiscal
13 year. The result is a reduction of our current fund balance by \$1,533,815.07. Other line items remained
14 the same.

15 Commissioner Simmons moved to adjourn the Hyde County Budget Workshop Meeting. Commissioner
16 Swindell seconded the motion. The motion passed on the following vote: Ayes – Pugh, Pahl, Simmons,
17 Swindell and Topping; Nays – None; Absent or not voting – None.

18
19 The meeting adjourned at 9:50a.m.

20
21 Respectfully submitted:

22
23 Minutes approved on the 3rd day of June, 2019.

24
25 Attest:
26
27

28
29
30 _____
31 Lois Stotesberry, CMC, NCCCC
Clerk, Hyde County Board of Commissioners

Earl Pugh, Jr.
Chair, Hyde County Board of Commissioners

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: Manager Kris Noble
Attachment: No

ITEM TITLE: PUBLIC HEARING

SUMMARY: The Board of Commissioners conducted Fiscal Year 2019-2020 Hyde County Budget Workshop meeting(s) on Monday, May 13, 2019, The Budget Workshop meeting was recessed on Monday, May 13, 2019 and reconvened on Wednesday, May 15, 2019.

The Hyde County Board of Commissioners will conduct public hearing on the Fiscal Year 2019-2020 Hyde County Budget on Monday, June 3, 2019, beginning at 6:00 p.m. or as soon thereafter as possible, in the Hyde County Government Center, Multi-Use Room, Swan Quarter and Ocracoke School Commons Area utilizing electronic conferencing equipment.

The purpose of this meeting is to receive citizen questions and/or comments on the proposed FY2019-2020 Hyde County Budget.

The Board of Commissioners will consider the FY 2019-2020 Hyde County Budget for adoption on Monday, June 24, 2019,

RECOMMEND: Conduct Public Hearing.

MOTION MADE BY: ___ PUGH
(OPEN) ___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

MOTION SECONDED BY: ___ PUGH
___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

VOTE: ___ PUGH
___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

MOTION MADE BY: ___ PUGH
(CLOSE) ___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

MOTION SECONDED BY: ___ PUGH
___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

VOTE: ___ PUGH
___ SIMMONS
___ PAHL
___ SWINDELL
___ TOPPING

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: County Manager Kris Cahoon Noble
Attachment: Yes - Resolution

ITEM TITLE: RESOLUTION HONORING WILLIAM (BILLY) FARROW WILLIAMS

SUMMARY: County Manager Kris Noble will present a resolution honoring the memory of William (Billy) Farrow Williams and his service to the Swan Quarter Watershed Committee.

RECOMMEND: ADOPT RESOLUTION

Motion Made By: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Motion Seconded By: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Vote: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Board of Commissioners

Earl Pugh, Jr., Chair
Tom Pahl, Vice-Chair
Benjamin Simmons, III
Shannon Swindell
James Topping

COUNTY OF HYDE

30 Oyster Creek Road
PO Box 188
SWAN QUARTER, NORTH CAROLINA 27885
252-926-4400
252-926-3701 Fax

Kris Cahoon Noble
County Manager

Franz Holscher
County Attorney

Lois Stotesberry, CMC, NCCCC
Clerk to the Board



RESOLUTION HONORING WILLIAM (BILLY) FARROW WILLIAMS
June 3, 2019

WHEREAS, Mr. William (Billy) Farrow Williams, was born in Hyde County on January 17, 1929 in Swan Quarter, North Carolina to Effron Avery and Lucy Lee Farrow Williams.

WHEREAS, Billy grew up in Swan Quarter and graduated from Swan Quarter High School in 1947, and then graduated from East Carolina Teacher's College with a degree in Music Education and the Air Force ROTC program in 1953 and was commissioned second lieutenant.

WHEREAS, Billy served in the Air Force for 20 years as a radar officer and helicopter pilot and retired from service in September, 1973. He married Ellen Louise Amidon on April 29, 1967. After retirement, they made their home in Swan Quarter and raised two sons.

WHEREAS, upon his retirement, Billy served the citizens of Hyde County as a County Commissioner, Chairman of the Hyde County Board of Elections, Weigh Master for Farm Bureau Hog Market, President of Eastern Carolina Health System Agency, Chairman of Hyde County Rural Health, Contract Officer of the Hyde County Dike Project, and a member of the Hyde County Airport Board.

WHEREAS, Billy was part of a group of landowners that approached the Board of Commissioners and the Pamlico Soil & Water Conservation District (now known as the Hyde Soil & Water Conservation District) about the need for a dike on West, Quarter, Double & Bay.

WHEREAS, Billy played an instrumental part in the pursuit of securing a protective dike around the Swan Quarter community and was a member of the Swan Quarter Watershed Steering Committee from May 18, 1981 to his death on May 3, 2019, a total of 38 years. He worked tirelessly with other landowners to make the dike project a reality prior to 1981 and all throughout his service on the Swan Quarter Watershed Steering Committee.

NOW, THEREFORE, BE IT RESOLVED, that William (Billy) Farrow Williams was an outstanding citizen of Hyde County and will be sorely missed by his family, friends, associates, fellow board members, and the Swan Quarter Watershed Steering Committee.

Adopted this the 3rd day of June, 2019.

Earl Pugh, Jr., Chairman
Hyde County Board of Commissioners

Lois Stotesberry, Clerk to the Board
Hyde County Board of Commissioners

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: June 3, 2019
Presenter: County Manager Kris Cahoon Noble
Attachment: Yes - Resolution

ITEM TITLE: RESOLUTION HONORING CALVIN BLYTHE DAVIS

SUMMARY: County Manager Kris Noble will present a resolution honoring the memory of Calvin Blythe Davis and his service to the Swan Quarter Watershed Committee.

RECOMMEND: ADOPT RESOLUTION

Motion Made By: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Motion Seconded By: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Vote: ☐ Earl Pugh, Jr.
☐ Tom Pahl
☐ James Topping
☐ Ben Simmons
☐ Shannon Swindell

Board of Commissioners

Earl Pugh, Jr., Chair
Tom Pahl, Vice-Chair
Benjamin Simmons, III
Shannon Swindell
James Topping

COUNTY OF HYDE

30 Oyster Creek Road
PO Box 188
SWAN QUARTER, NORTH CAROLINA 27885
252-926-4400
252-926-3701 Fax

Kris Cahoon Noble
County Manager

Franz Holscher
County Attorney

Lois Stotesberry, CMC, NCCCC
Clerk to the Board



RESOLUTION HONORING CALVIN BLYTHE DAVIS

June 3, 2019

WHEREAS, Mr. Calvin Blythe Davis was born in Washington, North Carolina, Beaufort County on May 1, 1955 to George Thomas Davis, Sr. and Alma Lee Cathey Davis.

WHEREAS, Blythe was raised Swan Quarter and attended the Christ School in Arden, graduating in 1973. He earned his undergraduate degree from North Carolina State University in 1977. He married the former Kelly Nagel in 1984 and they made their home in Swan Quarter and raised two children.

WHEREAS, Blythe made his livelihood in Hyde County farming his family lands. Blythe loved Hyde County, its rich farmland, and beautiful wildlands. He was fond of birds and bird dogs, salvage sales, and using his hands and creativity to craft custom farm tools, cabinetry, and his home.

WHEREAS, Blythe was appointed to the Swan Quarter Steering Committee on October 6, 2008 to replace his mother, Alma Lee Davis due to failing health.

WHEREAS, Blythe served on the Swan Quarter Steering Committee until his untimely death on June 5, 2018, and was an active and valuable member of the committee.

NOW, THEREFORE, BE IT RESOLVED, that Calvin Blythe Davis was an outstanding citizen of Hyde County and will be sorely missed by his family, friends, associates, fellow board members, and the Swan Quarter Watershed Steering Committee.

Adopted this the 3rd day of June, 2019.

Earl Pugh, Jr., Chairman
Hyde County Board of Commissioners

Lois Stotesberry, Clerk to the Board
Hyde County Board of Commissioners

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: Chris Hilbert
Attachment: Yes

ITEM TITLE: RECOMMENDATION FOR ENGINEERING SERVICES-HYDE COUNTY HMGP IRENE RESCOPEMENT AND FY-15 FMA

SUMMARY: On Tuesday, May 28 at 11 am, Chris Hilbert and Gary Miller of Holland Consulting Planners conducted a bid opening meeting at the Hyde Government Center. The meeting was held to solicit bids for engineering services for the Hyde County HMGP Irene Rescopement and FY15 FMA reconstruction projects. Three contractors submitted bids, B&B Construction, Gilbert Everett Builders, and Paul Woolard Construction. The lowest bid was submitted by B&B Construction. Holland Consulting Planners is recommending that B&B Construction be awarded the contract for the HMGP Irene Rescopement and FY15 FMA construction projects.

RECOMMEND: APPROVE RECOMMENDATION

MOTION MADE BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

Yellow Highlight = Low Bid

Holland Consulting Planners, Inc.
Award Summary Sheet

Project: Hyde County HMGP-Irene Rescopenement/ FY15 FMA			Bid Opening Date		5/28/2019
Case File #	Occupant/Address	Actual Bid (Tabulated)	Contractor	Recommended Award (X)	Comments
R1	Carawan - 4876 Loop Road, Scranton, NC	\$148,000.00	B&B Construction	X	Low Bidder
		\$172,064.00	Gilbert Everett Builder		
		\$162,000.00	Paul Woolard Const.		
R2	Sears - 5555 Slades-Credle Road, Scranton, NC	\$129,850.00	B&B Construction	X	Low Bidder
		\$174,064.00	Gilbert Everett Builder		
		\$145,000.00	Paul Woolard Const.		
1501H	Hayes - 255 Lazy Lane, Engelhard, NC	\$149,000.00	B&B Construction	X	Low Bidder
		\$159,040.00	Gilbert Everett Builder		
		\$150,000.00	Paul Woolard Const.		

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: June 3, 2019
Presenter: Citizens
Attachment: No

ITEM TITLE: PUBLIC COMMENTS

SUMMARY: Citizens are afforded an opportunity at this time to comment on issues they feel may be of importance to the Commissioners and to their fellow citizens.

Comments should be kept to (3) minutes and directed to the entire Board, not just one individual Commissioner, staff member or to a member of the audience.

Time for one person cannot be used by another person.

Comments that reflect the need for additional assistance will be directed to the County Manager or referred to a future meeting agenda.

RECOMMEND: Receive comments.

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: County Manager Kris Noble
Attachment: No

ITEM TITLE: EMPLOYEE/VOLUNTEER/FRIEND OF THE MONTH

SUMMARY: Manager Kris Noble will announce the Employee, Volunteer and/or Friend of the County for the month of June 2019.

RECOMMEND: Congratulations.

MOTION MADE BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ SIMMONS
☐ PAHL
☐ SWINDELL
☐ TOPPING

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: County Manager Kris Cahoon Noble
Attachment: Yes

ITEM TITLE: RESOLUTION

SUMMARY: County Manager Noble will present a resolution in opposition to changes proposed for the shrimping industry by the NC Wildlife Federation.

RECOMMEND: ADOPT RESOLUTION

MOTION MADE BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

RESOLUTION IN OPPOSITION TO PETITION FOR RULEMAKING TO AMEND 15A ADMIN. CODE 3L .0101, 3L .0103, 3J .0104 and to Add 3R .0119 TO DESIGNATE SPECIAL SECONDARY NURSERY AREAS AND REDUCE BYCATCH MORTALITY IN NORTH CAROLINA COASTAL FISHING WATERS AS PRESENTED BY THE NORTH CAROLINA WILDLIFE FEDERATION

June 3, 2019

WHEREAS, The North Carolina Wildlife Federation has filed a Petition for Rulemaking Pursuant to N.C. Gen. Stat. & 150B-20 and 15A N.C. Admin. Code 3P .0301 to amend 15A N.C. Admin Code 3J .0104, 3L .0101, 3L .0103 & To Add 15A N.C. Admin. Code 3R.0119;

WHEREAS, Hyde County strives to promote and ensure the viability and sustainability of North Carolina's valuable fisheries resources for all citizens including consumers demanding fresh North Carolina seafood;

WHEREAS, Hyde County strongly supports this resolution against rulemaking that proposes reclassifying internal coastal waters as secondary nursery areas and closes them to shrimp trawling; establishes criteria for the opening of shrimp season in Shrimp Trawl Management Areas; prohibit shrimp trawling in all Shrimp Trawl Management Areas on Tuesdays and Thursdays; and restricts headrope length for shrimp trawls in Shrimp Trawl Management Areas;

WHEREAS, Hyde County has a 300 year history of commercial fishing in Pamlico Sound and relies greatly on commercial fishing as their second largest industry supporting the Hyde County economy;

WHEREAS, hundreds of people in Hyde County rely on shrimp trawling to support their families, surrounding businesses, communities and the local economy. Hyde County's shrimp fishermen are small, family-owned, independent businesses that sell to seafood dealers that seasonally employ hundreds more and whose expenditures spread through the communities in Hyde County;

WHEREAS, trawl effects greatly depend on the design of the gear, intensity of use and location used. The largest proportion of the bottom of the Pamlico Sound is soft, muddy bottom or soft, sandy bottom, where shrimp trawls and their doors have not been found to be highly destructive;

WHEREAS, D. Corbett et al. 2004, found that shrimp trawl effects on the bottom found in most of the Pamlico Sound have been described by scientists as similar to harsh winter storms with short term impacts;

WHEREAS, R.A. Deehr 2012, found that scientists have found that trawling disturbance can stimulate an increase in population numbers of bottom invertebrates and that predators of those invertebrates were more common in areas not open to trawling;

WHEREAS, trawls are designed to be selective for target species by modifying the mesh size, modifying the design, and speed of tow and shrimp trawls in North Carolina are required to use finfish excluders to allow small fish to escape;

WHEREAS, according to Harrington, D.L. and R.A. Vendetti in 1996, as much as 70% of the juvenile finfish are excluded with finfish excluders and North Carolina was the first state to require finfish excluders in shrimp trawls in its internal waters;

WHEREAS, shrimp trawlers are also required to use Turtle Excluder Devices (TEDs) to allow sea turtles to escape and scientists have documented that TEDs exclude significant amounts of juvenile finfish;

WHEREAS, the Albemarle-Pamlico Sound, which is the largest brackish water body in any one state in the United States of America, is unique in its characteristics and cannot be compared to water bodies in other states;

WHEREAS, Pamlico Sound is one of the few water bodies that support commercial quantities of pink, white and brown shrimp in the south Atlantic;

WHEREAS, North Carolina is the only state that has formally designated nursery areas for juvenile fish, shrimp and crabs. All bottom-disturbing fishing gear is prohibited in these areas, including shrimp trawls and has been prohibited for over 35 years. The greatest majority of bays and creeks of western and northern Pamlico Sound are classified as secondary nursery areas to protect these populations;

WHEREAS, 124,000 acres of estuarine areas are classified as primary or secondary nursery areas. An additional 47,000 acres of brackish waters are classified as special secondary nursery areas. These areas are closed to trawling, but may be opened when the majority of juvenile fish have migrated from the areas. In 2006 almost 92,000 acres in the Pamlico, Pungo and Neuse Rivers were closed to shrimp trawling as part of the North Carolina Shrimp Fisheries Management Plan. In total almost 1,000,000 acres of internal coastal waters are closed to trawling in North Carolina representing approximately 48% of the total;

WHEREAS, North Carolina has not allowed trawling in Albemarle Sound since 1987. North Carolina closed extensive areas of submerged aquatic vegetation located on the eastern shore of the Outer Banks from Oregon Inlet to the mouth of Core Sound to shrimp trawling in 1994. These areas serve as nurseries for juvenile fish and shrimp;

WHEREAS, shrimp trawl fishermen try to fish in areas that maximize shrimp catch and minimize finfish bycatch. High amounts of finfish bycatch increase fuel costs and labor costs in addition to decreasing the economic quality of the shrimp caught. Shrimp trawl fishermen currently avoid high amounts of bycatch at every opportunity;

WHEREAS, characterizing bycatch in the North Carolina shrimp trawl fishery is difficult due to factors including but not limited to distribution of the bycatch species, variation in fishing effort, variations in gear, the seasonality of the fishery, and mortality of the bycatch species. The Director of the North Carolina Division of Marine Fisheries recognized in August of 2013 that 4.5 lbs. of fish per lb. of shrimp is "not a good estimate" and is "not the appropriate way to characterize bycatch";

WHEREAS, the variation of the amount of finfish to shrimp in a shrimp trawl is tremendous. Scientists studying bycatch in North Carolina have cautioned that finfish/shrimp ratios tend to overestimate bycatch;

WHEREAS, survival rates of discarded finfish from the shrimp trawl catches are also difficult to accurately calculate. Survival rates are greatly influenced by trawl tow times, water temperatures, catch volumes, and the time it takes to cull the fish. Studies have shown that creatures of the ecosystem where the shrimp are caught do consume large quantities of the discarded finfish that die. Blue Crabs and other benthic invertebrates, birds and bottlenose dolphins all consume discarded finfish;

WHEREAS, North Carolina is recognized by other states and the federal government as having one of the best fisheries data collection programs in the country. Since 1978, North Carolina has been

collecting detailed biological data on spot, Atlantic croaker, and gray trout; species most common in shrimp trawl bycatch. Data collected by the North Carolina Division of Marine Fisheries is used to assess population levels and to identify sources of fishing mortality;

WHEREAS, the 2010 Atlantic Croaker Stock Assessment Report for Peer Review, prepared by the Atlantic States Marine Fisheries Commission, states that in a 2010 stock assessment of Atlantic croaker, that while there was too much uncertainty in the models to precisely determine if the population was overfished, scientists state it is unlikely the stock is overfished based on other population data;

WHEREAS, spot are not classified as overfished but are classified as concerned by the North Carolina Division of Marine Fisheries, primarily based on landings. However, scientists recognize it is very difficult to determine population status from landings data;

WHEREAS, the Atlantic States Marine Fisheries Commission found in their Weakfish Stock Assessment Report in 2009 that there is little evidence that overfishing is occurring on weakfish and they believe other factors besides fishing are causing the weakfish stock decline;

WHEREAS, federal scientists in the 2005 South Atlantic Shrimp FMP found that while reviewing the stock status of weakfish, spot and Atlantic croaker, they could find no evidence to indicate that the mortality of shrimp trawls with TEDs was having a significant adverse effect on those populations;

WHEREAS, North Carolina has produced a fishery management plan for shrimp and other species. In addition, the federal government has developed a FMP for shrimp in the south Atlantic, with numerous amendments. None of these plans, amendments, or addendums has recommended a ban on inside shrimp trawling in North Carolina to ensure sustainability of these fisheries resources;

WHEREAS, prohibiting shrimp trawling on Tuesdays and Thursdays has no scientific basis and will greatly impede fishermen, drive up costs, increase fuel consumption and further drive fishermen out of the shrimp fishery;

NOW, THEREFORE, BE IT RESOLVED that rulemaking reclassifying most internal coastal waters as special secondary nursery areas is not needed to improve fisheries management. The proposed reclassification will have a devastating impact on commercial fishing families and coastal fishing communities. The proposed reclassification will eliminate the availability to consumers of North Carolina harvested shrimp; a public resource to North Carolina residents, tourists, restaurants, and seafood retail.

NOW, THEREFORE, BE IT FURTHER RESOLVED that on behalf of the citizens of Hyde County, the Hyde County Board of Commissioners strongly urge the North Carolina Marine Fisheries Commission to reject the proposed rule petition. Copies of this resolution in opposition to rule making that proposes reclassifying most internal coastal waters as secondary nursery areas will be forwarded to the Honorable Roy Cooper, NC Governor Elect, Nancy Fish, NCDMF Commission Liaison, the Hyde County Legislative Delegation to the North Carolina General Assembly and each county in the great state of North Carolina.

Adopted this the 3rd day of June, 2019, in Hyde County, North Carolina.

SIGNATURE OF BOARD CHAIR

ATTEST: _____
CLERK TO THE BOARD

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 919-967-1450

601 WEST ROSEMARY STREET, SUITE 220
CHAPEL HILL, NC 27516-2356

Facsimile 919-929-9421

May 20, 2019

Via U.S. Mail and E-mail

Mr. Rob Bizzell
Chairman, N.C. Marine Fisheries Commission
3441 Arendell Street
Morehead City, NC 28557
r.bizzell.mfc@ncdenr.gov

**Re: Petition for Rulemaking to Amend 15A N.C. Admin. Code 3L .0101,
3L .0103 and 3J .0104, and to Add 3R .0119**

Dear Chairman Bizzell:

On behalf of its client the North Carolina Wildlife Federation, the Southern Environmental Law Center submits the attached Petition for Rulemaking to the North Carolina Marine Fisheries Commission asking that the Commission amend its rules to do the following:

- Designate all Internal Coastal Waters not otherwise designated as Primary Nursery Areas, Secondary Nursery Areas, Special Secondary Nursery Areas, or otherwise closed to shrimp trawling as Shrimp Trawl Management Areas;
- Establish criteria for the opening of shrimp season in Shrimp Trawl Management Areas;
- Prohibit shrimp trawling in all Shrimp Trawl Management Areas on Tuesdays and Thursdays once the season has been opened; and
- Restrict the headrope length for shrimp trawls in Shrimp Trawl Management Areas and the other areas designated in 15A N.C. Admin. Code 3L .0103(d) to 110 feet total.

We have enclosed with this letter a Petition for Rulemaking, the text of the proposed rules, and supporting materials. By submitting this Petition, the Federation does not abandon its objections to the Commission's and Division of Marine Fisheries' handling of its November 2016 petition. This Petition for Rulemaking replaces the petition submitted by the Southern Environmental Law Center on behalf of the North Carolina Wildlife Federation in November 2016, as amended in January 2017.

Please contact us at 919-967-1450 or bhildebrand@selcnc.org with any questions or if you need additional information to process this request. Hard copies of the Petition and supporting materials will follow. Thank you for your consideration of this petition.

BEFORE THE NORTH CAROLINA MARINE FISHERIES COMMISSION

North Carolina Wildlife Federation,)	PETITION FOR RULEMAKING
Petitioner)	PURSUANT TO N.C. GEN. STAT. §
)	150B-20 AND 15A N.C. ADMIN CODE 3P
)	.0301 TO AMEND 15A N.C. ADMIN.
)	CODE 3J .0104, 3L .0101, 3L .0103 &
)	TO ADD 15A N.C. ADMIN. CODE
)	3R.0119

On behalf of the North Carolina Wildlife Federation (“Petitioner”), the undersigned file this Petition for Rulemaking (“Petition”) pursuant to and in accordance with the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-20, and 15A N.C. Admin. Code 3P .0301. These provisions require any person wishing to adopt, amend, or repeal a rule of the North Carolina Marine Fisheries Commission (“MFC” or “the Commission”) to submit a rulemaking petition addressed to the Chairman of the Commission and outlines requirements for a petition for rulemaking.

The amended rules would create a new designation for Internal Coastal Waters—Shrimp Trawl Management Areas—to be delineated under 15A N.C. Admin. Code 3R .0119; designate all Internal Coastal Waters not otherwise designated under 15A N.C. Admin. Code 3R .0103 (Primary Nursery Areas), 3R .0104 (Permanent Secondary Nursery Areas), 3R .0105 (Special Secondary Nursery Areas), 3J.0104(b)(3) (Trawl Net Prohibited Area), 3R .0106 (Trawl Net Prohibited Areas), or 3R .0114 (Shrimp Trawl Prohibited Areas) as Shrimp Trawl Management Areas; close Shrimp Trawl Management Areas from 12:00 a.m. until 11:59 p.m. on Tuesdays and Thursdays; establish criteria for the opening of shrimp season in Shrimp Trawl Management Areas; and reduce total headrope length for shrimp trawls operating in Shrimp Trawl Management Areas and other areas described in 15A N.C. Admin. Code 3L .0103(d) from 220

regulation of marine and estuarine resources” in North Carolina.³ The Commission’s rulemaking authority includes regulation of the “[t]ime, place, character, or dimensions of any methods or equipment that may be employed in taking fish” and “[s]easons for taking fish.”⁴ The Commission must adopt rules to “provide a sound, constructive, comprehensive, continuing, and economical coastal fisheries program” for the State.⁵ All regulation of commercial and recreational fishing must be “in the interest of the public,”⁶ as the marine and estuarine resources of North Carolina “belong to the people of the State.”⁷

The proposed rules are consistent with—and further the objectives of—the Coastal Habitat Protection Plan (“CHPP”), which was mandated by the Fisheries Reform Act.⁸ The MFC, together with the North Carolina Coastal Resources Commission and the Environmental Management Commission, adopted the CHPP and must implement the recommendations contained in the CHPP.⁹ The CHPP catalogues and describes the diversity of habitats and ecosystems on North Carolina’s coast, identifies threats to important coastal habitats, and recommends management actions “to protect and restore habitats” vital to the State’s fishery resources.¹⁰ Among the CHPP’s many stated goals is that of enhancing and protecting habitats from adverse physical impacts. Affording important habitats additional protection furthers the goals of the CHPP.

³ N.C. Gen. Stat. § 113-132(a) (2019); *see also* N.C. Gen. Stat. § 143B-289.51(b)(1) (2019); N.C. Gen. Stat. § 113-134.1 (2019) (clarifying that the MFC has regulatory authority over the conservation of marine fisheries “in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources”).

⁴ N.C. Gen. Stat. § 143B-289.52(a)(1)(a)-(b) (2019); *see also* N.C. Gen. Stat. § 113-182(a) (2019).

⁵ N.C. Gen. Stat. § 143B-289.51(b)(2) (2019).

⁶ N.C. Gen. Stat. § 143B-289.52(a)(2) (2019).

⁷ N.C. Gen. Stat. § 113-131(a) (2019).

⁸ *See* N.C. Gen. Stat. §§ 143B-289.52(a)(1), 143B-279.8 (2019). *See also North Carolina Coastal Habitat Protection Plan: Source Document*, N.C. DEP’T OF ENV’T’L QUALITY 2 (2016), *available at* http://portal.ncdenr.org/c/document_library/get_file?uuid=5d02ccd2-3b9d-4979-88f2-ab2f9904ba61&groupId=38337 [hereinafter *CHPP*].

⁹ N.C. Gen. Stat. § 143B-279.8(c) (2019).

¹⁰ N.C. Gen. Stat. § 143B-279.8(a) (2019).

appropriate times when shrimp may be taken, and the gear used for shrimping. The measures proposed in this Petition will ensure that shrimp trawling is conducted in a responsible manner that minimizes the bycatch of juvenile finfish species and macroinvertebrates from estuarine waters and facilitates the rebuilding of overfished and depleted finfish populations.

The lack of adequate habitat protections and declining and depleted status of many of our coastal fish stocks suggests a failure of the MFC to meet its duties to “conserve, protect, and regulate” marine and estuarine resources. While environmental factors such as habitat loss and poor water quality may affect the status of fish stocks, fishing practices also contribute to the decline and depletion of several stocks and are more controllable. Excessive bycatch of juvenile fish and other non-target species in the shrimp trawl fishery in estuarine and near shore waters contributes to the current unknown or depleted status of several commercially and recreationally valuable species, including but not limited to Atlantic croaker, spot, weakfish, southern flounder, and blue crabs.

North Carolina has the largest and most productive estuarine system of any state on the east coast.¹⁴ Estuarine-dependent species account for more than 90 percent of the State’s commercial fisheries landings and over 60 percent of the recreational harvest.¹⁵ The success and viability of these fisheries requires protection of important habitat areas on which these species rely for survival. North Carolina’s existing nursery program provides important protections to larval and early juvenile populations that inhabit shallow, protected habitat areas. Later stage juveniles—those juveniles that have not yet reached adulthood and therefore have not spawned—however, lose habitat protection once they move into the sounds and ocean waters

¹⁴ *Estuarine Benthic Habitat Mapping Program – Shellfish and Submerged Aquatic Vegetation*, N.C. DEPT OF ENV’TL QUALITY, <http://portal.ncdenr.org/web/mf/shellfish-habitat-mapping> (last visited May 10, 2019).

¹⁵ See *CHPP*, *supra* note 8, at 11.

themselves, and contribute to the adult population. Increasing juvenile recruitment is critical to rebuilding the stock and age structure of these species.²⁰

Critical ecosystem services are also lost as a result of sustained high bycatch levels.²¹ Atlantic croaker, spot, weakfish, and southern flounder serve an important role in the trophic structure of the state's fisheries resources. Spot and Atlantic croaker, for example, transfer energy from benthic species (their primary diet component) to other economically valuable species, including spotted seatrout, red drum, and southern and summer flounder.²² Removing significant levels of juvenile fish in shrimp trawls disadvantages higher-level species. The trawling activity itself compounds this effect, as bottom disturbing gear disrupts bottom habitat and bottom-dwelling benthic communities.²³

Habitat protection for juvenile fish is also lacking. Nursery areas serve as vital habitat areas for the development of finfish and shellfish species from early larval to late juvenile life stages. Nursery habitat supports high abundance levels and diversity of fish species, and the ecological processes that occur in nursery habitat support growth of individual fish. For decades, researchers have recognized the importance of nursery areas for juvenile life stage development. Estuarine nursery areas have been shown to contribute disproportionately to the production of individual fish that recruit into adult populations.²⁴

Atlantic croaker, spot, weakfish, and southern flounder, among other estuarine-dependent species, spawn in coastal and near-shore ocean waters and recruit as early juveniles in estuarine

²⁰ *Id.*

²¹ See Luiz Barbieri, *Technical Review: The Need to Reduce Fishing Mortality and Bycatch of Juvenile Fish in North Carolina's Estuaries* (Nov. 2016) (Exhibit E), at 9.

²² See Travelstead & Daniel, *supra* note 19, at 12.

²³ See *id.* at 15; see also Barbieri, *supra* note 21, at 11.

²⁴ See Barbieri, *supra* note 21, at 5 (citing Able 2005, Beck, et. al., 2001, Heck and Crowder 1991); see also Lefcheck, et al., *Are coastal habitats important nurseries? A meta-analysis*, CONSERVATION LETTERS (2019); e12645. <https://doi.org/10.1111/conl.12645> (attached hereto as Exhibit M).

even when bycatch reduction devices are properly installed. In addition, otter trawls disturb the sea or sound floor, which are fragile and productive ecosystems. A legislative panel pre-dating the Fisheries Reform Act found that bottom trawling gear, including shrimp trawls, had the greatest potential to impact bottom habitats in estuarine and coastal waters.³³ These impacts include physical disruption of habitat, changes in functional organization of species, increases in total suspended solids and turbidity, destruction of submerged aquatic vegetation, and decreases in habitat complexity.³⁴

In North Carolina, designated Primary Nursery Areas, Permanent Secondary Nursery Areas, and Special Secondary Nursery Areas are afforded protection; however, existing designations fail to account for all habitat areas that serve as nurseries. This is in spite of the fact that the MFC has recognized that “nursery areas need to be maintained . . . in their natural state, and the populations within them must be permitted to develop in a normal manner with as little interference from man as possible.”³⁵

The MFC’s efforts to minimize bycatch of juvenile finfish have proven unsuccessful to date. The MFC fell far short of taking meaningful action to protect important habitat areas and reduce bycatch of juvenile fish in Amendment 1 to the Shrimp Fishery Management Plan and has done little since the adoption of Amendment 1 to address this important issue.³⁶

The Federation proposes to designate all Internal Coastal Waters not already closed to trawling as Shrimp Trawl Management Areas. The proposed rules would also provide clear guidance to the Fisheries Director in his/her exercise of proclamation authority to open shrimp season in these newly designated areas. The proposed rules would additionally reduce effort in

³³ See *CHPP*, *supra* note 8, at 163.

³⁴ See *id.* at 163-67.

³⁵ See *Amendment 1*, *supra* note 29, at 168; see also 15A N.C. Admin. Code 3N .0104-0105 (2019).

³⁶ See generally *Amendment 1*, *supra* note 29.

c. Three day shrimping week

Reducing the number of fishing days each week will reduce overall effort and, thus, bycatch of juvenile species in state waters. Under existing rules, shrimp trawling is prohibited in inshore waters from 9:00 p.m. on Friday until 5:00 p.m. on Sunday evenings.³⁹ An additional two-day closure would reduce overall bycatch, provide fish species the opportunity to move out of trawling areas, and allow fish to potentially recover from encounters with shrimp trawls during fishing days.⁴⁰ Shrimp landings are highest immediately after the opening of trawling for the week, suggesting that an additional two days of closure could improve overall efficiency in the fishery.⁴¹

In its original petition, the Federation did not specify closure days in order to maximize flexibility to the Fisheries Director. In its fiscal note evaluating the economic and fiscal impacts of the original petition, the Division suggested it would be difficult and expensive to enforce this proposed rule without specifying closure days.⁴²

To address these concerns, the Federation proposes limiting the number of days for trawling in designated Shrimp Trawl Management Areas to three specific days each week: Monday (12:00 a.m. until 11:59 p.m.), Wednesday (12:00 a.m. until 11:59 p.m.), and Friday (12:00 a.m. until 8:59 p.m.).

d. Maximum headrope of 110 feet

http://portal.ncdenr.org/c/document_library/get_file?uuid=8b8fd8bc-d962-4017-a6a3-e8c7b3b8a6ce&groupId=38337.

³⁹ 15A N.C. Admin. Code 3L .0102.

⁴⁰ See Travelstead & Daniel, *supra* note 19, at 18; see also *Amendment 1*, *supra* note 29, at 302 (discussing Ingraham's (2003) evaluation of nighttime closure off the coast of Brunswick County and noting that finfish bycatch was higher during nighttime trawling).

⁴¹ See *Amendment 1*, *supra* note 29, at 301 (citing Johnson 2006); see also Travelstead & Daniel, *supra* note 19, at 18.

⁴² As noted in its July 2018 and February 2019 letters to the Commission, the Federation disagrees with the Division of Marine Fisheries' economic and fiscal analyses.

Code 3L .0103(d) not to exceed 110 feet. A consistent maximum headrope length not to exceed 110 feet in internal waters will provide clarity and consistency for all fishermen and result in more efficient fishing practices in state waters.

IV. STATEMENT OF THE EFFECT ON EXISTING RULES OR ORDERS

The proposed rules will amend the following sections of 15A of the N.C. Administrative Code: 3J .0104, 3L .0101, and 3L .0103; and will add a new section: 3R .0119. The proposed changes are not expected to affect any other existing rules.

V. COPIES OF ANY DOCUMENTS AND DATA SUPPORTING THE PROPOSED RULES

Supporting materials, including peer-reviewed research papers, are attached hereto as Exhibits B through M and summarized below:

- **Exhibit B:** J. Travelstead & L. Daniel, *A Technical Review of a proposal submitted by the North Carolina Wildlife Federation to reduce mortality of juvenile fishes in North Carolina*, submitted to the N.C. Marine Fisheries Commission (Nov. 2016).

This technical review, which was submitted in support of the North Carolina Wildlife Federation's November 2016 petition for rulemaking, details the important role of nursery areas in juvenile fish development, the stock status of several commercially and recreationally important species, and the contribution of bycatch mortality in nursery areas to overall stock status. The authors recommend several management strategies, some of which are proposed by the underlying petition, that the MFC should adopt to provide adequate protection to important habitat areas and mitigate bycatch levels in North Carolina waters.

- **Exhibit C:** Curriculum Vitae for Jack Travelstead
- **Exhibit D:** Curriculum Vitae for Dr. Louis Daniel
- **Exhibit E:** L. Barbieri, *Technical Review: The Need to Reduce Fishing Mortality and Bycatch of Juvenile Fish in North Carolina's Estuaries*, submitted to the N.C. Marine Fisheries Commission (Nov. 2016).

This technical review, which was submitted in support of the North Carolina Wildlife Federation's November 2016 petition for rulemaking, discusses the need to reduce fishing and bycatch mortality of juvenile fish in North Carolina's estuaries.

habitats, including shrimp trawling, and providing protection for migration corridors, e.g., nursery area expansion, are critical considerations for the proposed seascape nursery concept.

The authors conclude by stressing that most inshore bodies of water around the world—for example, the Pamlico Sound in North Carolina—require young fishes and other marine resources to pass through bay mouths or openings between barrier islands, inlets, or deeper tidal channels to reach offshore waters where they join the adult stock and spawn. The authors indicate that these specific areas should be given high conservation importance, as they maintain that connectivity among inshore and offshore ecosystems is critical.

- **Exhibit J:** M. Sheaves, et al., *True Value of Estuarine and Coastal Nurseries for Fish: Incorporating Complexity and Dynamics*, 38 ESTUARIES AND COASTS 401 (2015).

This paper supports the argument that North Carolina’s nursery program is rudimentary and fails to consider a broad assessment of nursery habitat value. The authors expand on Beck, et al. (2001) and Dahlgren et al. (2006), both cited by the Division of Marine Fisheries in its fiscal note, which only focus on one aspect of nursery ground value. The authors stress the need to provide protection in critical transition zones between refuge and feeding areas. The authors specifically state that predatory activities—which may include shrimp trawling—in these important habitat corridors can control the supply of recruits.

It is also important, and they point out, that nursery ground values differ depending on the species involved and the current system. In other words, a one-size-fits-all scenario fails to take into account the needs of many critical ecosystem components.

The authors conclude that failure to incorporate the various complexities and needs of species into conservation approaches can risk incomplete or inaccurate identification of key habitats and connectivity that lead to significant potential for unexpected negative outcomes.

This paper describes the current situation in North Carolina, where the nursery area program is rudimentary and generic and fails to take into account any species-specific requirements of connectivity or ecosystems function of the juvenile fishes that are transporting estuarine production in the form of fish flesh to the coastal ecosystem. This research also supports the Federation’s contention that the shrimping grounds located between the currently designated nursery areas and the offshore stock represent a critical bottleneck to this productivity, and when combined with natural predation, can dramatically reduce productivity.

- **Exhibit K:** J. Bellido, et al., *Fishery discards and bycatch: solutions for an ecosystem approach to fisheries management?*, 670 HYDROBIOLOGIA 317 (2011).

The authors state that “fishery discard practices constitute a *purposeless waste of valuable living resources*, which plays an important role in the *depletion of marine populations*. Furthermore, discarding may have a number of adverse ecological impacts in marine ecosystems,

that almost all structured habitats, including seagrasses, marshes, submerged aquatic vegetation, oyster beds, and shell hash bottoms, significantly enhance juvenile density, growth, and survival.

These habitats are critical because they provide a complex three-dimensional space as opposed to unstructured habitats, such as sand and mud, which provide none of the aforementioned structure or protection.

The vast majority of areas within the estuaries of North Carolina which currently serve as nursery habitats for most of the commercially and recreationally important species of fish, crabs, and shrimp, as well as forage species important to the ecosystem, are the unstructured habitats that provide less benefit to juveniles. A primary cause of this lack of structure in the North Carolina estuaries is the lack of protection from bottom disturbing gears such as shrimp trawls, crab trawls, and dredges. As a result, much of the three-dimensional structure, so critical for juvenile growth and survival, has been converted to unstructured habitats and provides less function.

This paper best illustrates the critical needs for the reform sought by the Petition. The paper refutes statements by the Division in the fiscal note analysis for the previous petition.⁵¹ Further, it most certainly challenges the concept that “turning over the bottom” by trawling enhances long term production and survival as presented by Deehr (2014).⁵² The Petition strives to address the destruction and two-dimensionality of our once-important estuarine ecosystem that ultimately leads to long-term habitat protection and a return to a productive nursery area system through a more holistic approach to habitat protection.

VI. A STATEMENT ON THE EFFECT OF THE PROPOSED RULE ON EXISTING PRACTICES IN THE AREA INVOLVED, INCLUDING AN ESTIMATE OF COST FACTORS FOR PERSONS AFFECTED BY THE PROPOSED RULES

The proposed rules are designed to minimally affect the commercial and recreational fishing industries. Commercial and recreational fishermen would be expected to see increases in the availability and value of fishes available for harvest under the proposed rules. Commercial fishermen with large boats and nets exceeding the total headrope maximum may be required to discontinue the use of one or two nets while in estuarine waters. The reduction in weekly

⁵¹ Compare Exhibit M with Division of Marine Fisheries Fiscal Note at 68-69 (citing R.A. Deehr, et al., *Using stable isotope analysis to validate effective trophic levels from Ecopath models of areas closed and open to shrimp trawling in Core Sound, N.C., USA*, 282 ECOLOGICAL MODELING 1-17 (2014)).

⁵² Cf. R.A. Deehr, et al., *Using stable isotope analysis to validate effective trophic levels from Ecopath models of areas closed and open to shrimp trawling in Core Sound, N.C., USA*, 282 ECOLOGICAL MODELING 1-17 (2014).

to the Commission outlining its objections to the Division's attempts to evaluate the fiscal and economic impacts of the proposed rules in the November 2017 petition for rulemaking. The Federation stands by those objections, and encourages the Commission to direct the Division to develop the fiscal analysis with an attention to those objections.

VII. A DESCRIPTION OF THOSE MOSTLY LIKELY TO BE AFFECTED BY THE PROPOSED RULES

As described above, the proposed rules will affect a portion of commercial fishing license holders that participate in the commercial shrimp trawl fishery. The majority of commercial fishermen, those that harvest finfish and crabs, the recreational fishing industries, as well as the general public will be positively impacted by the proposed rules. Ultimately, the proposed rules will protect juvenile fishes until they either contribute to the spawning stock, the saleable or legal harvest, or the ecosystem, which will benefit all users in the fishery. Economically valuable North Carolina and coast-wide fish stocks have struggled to rebound after several years, and in some cases decades, of decline. Bycatch mortality in the absence of adequate habitat protection has contributed to declining and depleted stock statuses. By protecting valuable habitats and reducing bycatch levels, the proposed rules will protect marine and estuarine resources for all citizens of the State.

VIII. THE NAME AND ADDRESS OF PETITIONERS

Tim Gestwicki
North Carolina Wildlife Federation
1346 Saint Julien Street
Charlotte, NC 28205

Respectfully submitted this the 20th day of May, 2019.

[signature page follows]

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: June 3, 2019
Presenter: County Manager Kris Cahoon Noble
Attachment: Yes

ITEM TITLE: RESOLUTON AGAINST AMENDMENT 2 – SOUTHERN FLOUNDER

SUMMARY: Please see the attached resolution that will be sent to NCDMF, NCMFC, the NC Secretary of the Environment, the Governor and all the NC House & Senate members.

RECOMMEND: ADOPT RESOLUTION

MOTION MADE BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

MOTION SECONDED BY: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

VOTE: ☐ PUGH
☐ PAHL
☐ SIMMONS
☐ SWINDELL
☐ TOPPING

Board of Commissioners

Earl Pugh, Jr., Chair
Tom Pahl, Vice-Chair
Benjamin Simmons, III
Shannon Swindell
James Topping

COUNTY OF HYDE

30 Oyster Creek Road
PO Box 188
SWAN QUARTER, NORTH CAROLINA 27885
252-926-4400
252-926-3701 Fax

Kris Cahoon Noble
County Manager

Franz Holscher
County Attorney

Lois Stotesberry, CMC, NCCCC
Clerk to the Board



**RESOLUTION Against Southern Flounder Amendment 2 and the North Carolina Division of Marine Fisheries Recommendation to the North Carolina Marine Fisheries Commission
June 3, 2019**

WHEREAS, the Southern Flounder Amendment 2 and the North Carolina Division of Marine Fisheries are recommending to cut the southern flounder harvest by 62% in 2019 and 72% in 2020;

WHEREAS, the southern flounder fishery is absolutely a cornerstone of the Ocracoke and Hyde County economy;

WHEREAS, Ocracoke Seafood is the only fish house left on Ocracoke Island and is a fishermen owned enterprise that buys fish, oysters and clams from over 30 fishermen;

WHEREAS, the income generated by sales to Ocracoke Seafood Company supports fishing families, Ocracoke's local tourism economy and Hyde County's tax revenue and sustainability;

WHEREAS, Ocracoke's tourism economy is supported by 12 restaurants which depend on fresh, local seafood to satisfy tourists craving for fresh Ocracoke seafood;

WHEREAS, fresh, wild-caught seafood is one of the top tourist attractions on Ocracoke, adding to the \$1 billion of tourist revenues North Carolina gains yearly from the coastal region;

WHEREAS, 20% of all tourists visit the coast of North Carolina specifically to eat locally caught seafood;

WHEREAS, Ocracoke Seafood Company depends on the diversity of species that the pound net harvest provides throughout the fall to stock the seafood retail and an October 17th closure will remove the primary source of wholesale landings in the months of October and November;

WHEREAS, the recommendation by the North Carolina Division of Marine Fisheries at the North Carolina Marine Fisheries Commission meeting to cut the southern flounder harvest by 62% in 2019 and 72% in 2020 with an October 17th closure to the flounder season will make Ocracoke Seafood Company unprofitable;

WHEREAS, Ocracoke Seafood Company's payroll to Ocracoke fishermen averages \$600,000 annually and supports 4 full time employees;

WHEREAS, the income generated at Ocracoke Seafood Company is recycled into the Ocracoke economy making an exceptional impact during the winter months when jobs and tourists are non-existent;

WHEREAS, Hyde County is a Tier One, Economically Disadvantaged County and the second most impoverished county in the state of North Carolina generating it's sole economic survival from agriculture, commercial fishing and tourism;

WHEREAS, the loss of Ocracoke's flounder fishery would eliminate jobs, decrease tax revenue through commercial fishing sales and erase the presence of a fish house on the Ocracoke harbor which is essential to the tourism market that has evolved from this mutually dependent relationship of tourism and fresh seafood;

WHEREAS, Ocracoke Village would not be the same without a fish house and enacting Amendment 2 would negatively affect all business on Ocracoke Island, endanger the presence of the fish house, and this is unacceptable to Ocracoke and Hyde County;

WHEREAS, the Central Region is too large and diverse in regard to flounder harvest and should be divided into two subregions to allow fishermen on the east and west sides of the Pamlico Sound equal opportunity to participate in the fall pound net fishery;

WHEREAS, over the last five years, setting pound nets along Ocracoke and Hatteras have been delayed due to hurricanes and until mid October the catch is primarily summer species including spade, butterfish and pompano;

WHEREAS, to be economically feasible, pound net fishermen need a 5-week season starting October 1st and ending after the first week of November, which allows the owner a two week period to recover the expenses of fishing and two - three weeks for the owner and crew to make a profit for the months of work it took to prepare for the fishery;

WHEREAS, Ocracoke Seafood Company is recognized as one of the Golden Leaf Foundation's most successful projects in eastern North Carolina and has been studied by multiple national organization and the Food and Agriculture Organization of the United Nations for its unique fishermen owned business model;

WHEREAS, Ocracoke Seafood Company ships seafood throughout North Carolina, specifically targets Raleigh markets and is recognized by companies and tourists who purchase seafood as one of the best examples of fresh, local North Carolina seafood;

WHEREAS, Amendment 2 and the current North Carolina Division of Marine Fisheries recommendation to the Marine Fisheries Commission will place all of the dedication, hard work and funding to rebuild the Ocracoke fish house over the last twelve years in dire economic jeopardy;

WHEREAS, the Southern Flounder Advisory Committee has recommended a 31% reduction in flounder harvest in 2019 and a 52% reduction in 2020 with that recommendation being developed through significant debate of the data and multi stakeholder input and allows commercial fishermen one year to adjust their business models that may keep a portion of the pound net fishery operational;

WHEREAS, the average age of a North Carolina commercial fisherman is approaching the mid 50's and those fishermen hold all of the capital and experience in the fishing industry and as they are continually pressured they will retire and move into other fisheries that creates additional stress on those fisheries as well while endangering the commercial fishing industry and damaging the coastal tourism industry;

WHEREAS, the mainland portion of Hyde County has already lost approximately 95% of its flounder fishery, flounder fishermen, fish houses and the economy that those supported because of restrictions that have already been placed on the fishery over the past years, skewing the numbers on the mainland to create an illusion of decreased harvests and decreased stocks because regulations have reduced the number of fishermen and the effort within the fishery;

NOW, THEREFORE, BE IT RESOLVED, that the Hyde County Board of Commissioners unanimously recommend that Amendment 2 and the current North Carolina Division of Marine Fisheries recommendation to the Marine Fisheries Commission be voted against and that the two entities work to find a compromise that will rebuild the southern flounder stocks and end overfishing without destroying fishing families, fishing communities and the seafood infrastructure needed to get seafood to market in and outside of the Great State of North Carolina.

NOW, THEREFORE, LET IT FURTHER BE RESOLVED, the Hyde County Board of Commissioners unanimously recommend the North Carolina Division of Marine Fisheries and the Marine Fisheries Commission consider the adoption of the recommendation of the Southern Flounder Advisory Committee of a reduction of 31% in 2019 and a 52% reduction in 2020 with a 5-week season starting October 1st and ending after the first week of November.

Adopted this the 3rd day of June, 2019.

Earl Pugh, Jr., Chairman
Hyde County Board of Commissioners

Lois Stotesberry, Clerk to the Board
Hyde County Board of Commissioners

DMF accepting public comment on southern flounder management proposals

The N.C. Division of Marine Fisheries is accepting public comment on proposed southern flounder management measures intended to significantly reduce commercial and recreational southern flounder harvest to end overfishing and rebuild the overfished stock, as required by law.

Draft Amendment 2 to the Southern Flounder Fishery Management Plan contains options for several seasonal harvest closure scenarios to achieve up to a 72 percent reduction in southern flounder harvest for the commercial and recreational fishing sectors.

Additionally, at the request of the Marine Fisheries Commission, the draft amendment includes an option for a partial moratorium.

Options for non-quantifiable management measures to constrain effort, such as yardage and time restrictions for gill nets and daily harvest limits for pound nets and gigs, are included in the draft amendment as well.

Details of the proposed management measures can be found on the information on southern flounder page on the division's website, ncdenr.org/web/mf/, under hot topics. The Draft Amendment 2 document is 63 pages long.

Southern flounder is one of three main species of flounder landed on the North Carolina coast. The other two species are summer flounder and Gulf flounder.

The public may comment on the draft amendment in three ways:

- **Public Meeting** – The public may speak at a joint meeting of three advisory committees to be held June 3 at the Crystal Coast Civic Center, 3505 Arendell St., Morehead City. The joint meeting of the Finfish, Northern and Southern advisory committees will begin at noon and end at 4:15 p.m. and include a 1½ hour comment period. During the comment period, members of the public may speak for three minutes each on a first-come, first-served basis. Doors will open at 11 a.m.

- **Online Comments** – Public comments will be accepted until midnight June 3 through an online format that can be accessed through the division's website, ncdenr.org/web/mf/, under hot topics. Computers will be available at the June 3 public meeting to provide online access to attendees.

- **Mailed Comments** – Written comments may be mailed to Southern Flounder Comments, P.O. Box 769, Morehead City, N.C. 28557. Comments must be received by the division by midnight June 3.

The division will not accept public comment through email.

Reductions in harvest are required because a 2019 South Atlantic Southern Flounder Stock Assessment found that southern flounder is overfished and overfishing is occurring throughout the region. Overfished means the population is too small. Overfishing means the removal rate is too high. North Carolina law mandates that fishery management plans include measures to end overfishing within two years of adoption and rebuild the stock to achieve sustainable harvest within 10 years of adoption.

A harvest reduction of at least 52 percent is needed to meet the statutory requirements.

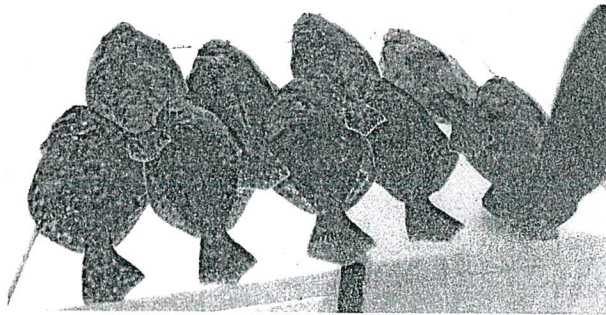
To increase the probability of successfully rebuilding the resource, the division proposes a 62 percent reduction in southern flounder harvest (compared to 2017) in North Carolina this year and a 72 percent reduction in harvest beginning in 2020 until adoption and implementation of Amendment 3 to the Southern Flounder Fishery Management Plan, scheduled for completion in 2021.

The Southern Flounder Fishery Management Plan Advisory Committee, based on preliminary information, recommended a 31 percent reduction in commercial harvest (compared to 2017) and a 33 percent reduction in recreational hook and line harvest in 2019 (compared to 2017), increasing to a 52 percent reduction in commercial and recreational harvest in 2020.

The advisory committee's recommendation meets statutory requirements to end overfishing in two years but does not rebuild the stock to sustainable harvest within 10 years. The committee is scheduled to meet at 6 p.m. June 3 at the N.C. Division of Marine Fisheries' Central District Office to reconsider its earlier recommendation, as well as comment from the public and other advisory committees. The meeting is open to the public, but no public comment will be accepted.

The Marine Fisheries Commission is scheduled

to hold a special meeting on June 6 to consider all public and advisory committee input and select its preferred management measures for departmental and legislative review. The commission is scheduled to give final approval of the draft amendment in August so that the management measures can be implemented by proclamation before this fall.



DAILY NEWS

Marine Fisheries holds public comment on overfishing southern flounder fixes

From N.C. Division of Marine Fisheries

MOREHEAD CITY — The N.C. Division of Marine Fisheries is accepting public comment on proposed southern flounder management measures intended to significantly reduce commercial and recreational southern flounder harvest to end overfishing and rebuild the overfished stock, as required by law.

Draft Amendment 2 to the Southern Flounder Fishery Management Plan contains options for several seasonal harvest closure scenarios to achieve up to a 72% reduction in southern flounder harvest for the commercial and recreational fishing sectors. Additionally, at the request of the Marine Fisheries Commission, the draft amendment includes an option for a partial moratorium.

Options for non-quantifiable management measures to constrain effort, such as yardage and time restrictions for gill nets and daily harvest limits for pound nets and gigs, are included in the draft amendment as well.

Details of the proposed management measures can be found on the Information on Southern Flounder Amendment page on the division's website.

Southern flounder is one of three main species of flounder landed on the North Carolina coast. The other two species are summer flounder and Gulf flounder.

The public may comment on the draft amendment in three ways:

► **Public Meeting** — The public may speak at a joint meeting of three advisory committees to be held June 3 at the Crystal Coast Civic Center, 3505 Arendell St., Morehead City. The joint meeting of the Finfish, Northern and Southern advisory committees will begin at noon and end at 4:15 p.m. and include a 1 ½ hour comment period. During the comment peri-

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To increase the probability of successfully rebuilding the resource, the division proposes a 62% reduction in southern flounder harvest (compared to 2017) in North Carolina this year and a 72% reduction in harvest beginning in 2020 until adoption and implementation of Amendment 3 to the Southern Flounder Fishery Management Plan, scheduled for completion in 2021.

The Southern Flounder Fishery Management Plan Advisory Committee,

based on preliminary information, recommended a 31% reduction in commercial harvest (compared to 2017) and a 33% reduction in recreational hook and line harvest in 2019 (compared to 2017), increasing to a 52% reduction in commercial and recreational harvest in 2020. The advisory committee's recommendation meets statutory requirements to end overfishing in two years but does not rebuild the stock to sustainable harvest within 10 years. The committee is scheduled to meet at 6 p.m. June 3 at the N.C. Division of Marine Fisheries' Central District Office to reconsider its earlier recommendation, as well as comment from the public and other advisory committees. The meeting is open to the public, but no public comment will be accepted.

The Marine Fisheries Commission is scheduled to hold a special meeting June 6 to consider all public and advisory committee input and select its preferred management measures for departmental and legislative review. The commission is scheduled to give final approval of the draft amendment in August so that the management measures can be implemented by proclamation before this fall.



Ocracoke Civic & Business Association, Inc.

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We urge the Division of Marine Fisheries and State Government to propose measures that will produce long-term benefits to the Southern Flounder stocks, but recognize that coastal communities and businesses need to stay economically viable.

We encourage the DMF to adopt a measured approach to any reductions, commercial or recreational, in the Southern Flounder harvest. The negative effect of drastic reductions will be felt by all businesses that service the tourist industry and commercial fishing.

Thank you.

Sincerely,



Rudy Austin, President

Ocracoke Civic & Business Association, Inc.

Rudy Austin, President • Justin LeBlanc, Vice President • Martha Garrish • Chad Macek • John Giagu • Bob Chestnut • Margaret
Trainer



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May 27, 2019

North Carolina Division of Marine Fisheries:

The Ocracoke Civic & Business Association, Inc. (OCBA) wishes to go on record in support of the Ocracoke Seafood Company, ("The Fish House"), which is against the proposed Amendment 2, further restricting Southern Flounder fishing.

This proposal would severely reduce flounder landings, commercial and recreational, on Ocracoke Island and other rural areas in coastal North Carolina. Fresh, wild-caught seafood is one of the top tourist attractions on Ocracoke, adding to the \$1 billion of tourist revenues North Carolina gains yearly from the coastal region. In fact, 20% of all tourists visit the coast especially to eat locally caught seafood.

Ocracoke Seafood Company is a community-based business where commercial fishermen bring their catch and where the public can purchase fresh, wild-caught North Carolina seafood. Having this market on the island adds to Ocracoke's "Fishing Village" image, that benefits every business on Ocracoke.

All Ocracoke restaurants have contracts with local commercial fishermen to supply them with fresh fish. Flounder is one of the most prized fishes on our island tables. From September through November, Southern Flounder is our most important wholesale product.

The restrictions proposed in Amendment 2 would negatively impact the commercial fishermen's ability to catch Southern Flounder. Seasonal closures with a 62% reduction in landings would put the pound net fishermen out of business. The impact trickles down to lost jobs, decreased revenues, and ultimately, reduced state tax revenues.

Ocracoke Village would not be the same without the "Fish House". The enacting of this amendment would negatively affect all businesses on Ocracoke Island and would put Ocracoke Seafood Company in jeopardy of closing. This is unacceptable to Ocracoke.

Rudy Austin, President • Justin LeBlanc, Vice President • Martha Garrish • Chad Macek • John Giagu • Bob Chestnut • Margaret

Trainer

Public Comment against Southern Flounder Amendment 2 and NCDMF recommendation to the NCMFC

Thank you for the opportunity for Ocracoke Seafood Company to submit written comment against Southern Flounder Amendment 2 and the NCDMF recommendation to cut southern flounder harvest by 62% in 2019 and 72% in 2020. Ocracoke Seafood Company is a fishermen owned enterprise and it has 4 full time employees. **It is the only fish house on Ocracoke Island!** Ocracoke Seafood Company buys fish, oysters and clams from over 30 fishermen. The income generated by sales to Ocracoke Seafood Company supports fishing families, Ocracoke's local economy and Hyde County's tax revenue. Ocracoke's tourism economy is supported by 12 restaurants which depend on "local" fresh seafood to satisfy tourists craving for fresh Ocracoke seafood.

The recommendation by the NCDMF at the NCMFC meeting for a 62% reduction in flounder harvest in 2019 and a 72% reduction in harvest in 2020 with a Oct. 17th closure to the flounder season will make Ocracoke Seafood Company unprofitable. Ocracoke Seafood Company depends on the diversity of species that pound nets harvest provide through the fall to stock the seafood retail and will remove the primary source of wholesale landings in the fall months.

Ocracoke Seafood Company payroll to Ocracoke fishermen averages \$600,000 annually and pays salary to 4 full time employees. That income is recycled into the Ocracoke economy, especially during winter months when jobs and visitors are nonexistent. Hyde County is NC's second poorest County. It can ill afford to lose the payroll and tax revenue generated by Ocracoke Seafood Company and the iconic presence of the "Fish House" on the harbor. Ocracoke is a fishing and tourist economy that is mutually dependent on each other. Ocracoke Seafood company agrees with the Ocracoke Business and Civic Association's (quote from their public comment) assessment that "Ocracoke Village would not be the same without the "Fish House". The enacting of Amendment 2 would negatively affect all business on Ocracoke Island and would put Ocracoke Seafood Company in jeopardy of closing. This is unacceptable to Ocracoke."

Ocracoke Seafood Company supports the recommendation outlined in the public comments submitted by Soundwaves Seafood Company.

- The Central Region is huge and diverse when it comes to how and when flounders are harvested. It is imperative that the NCDMF split the Central Region into two sub regions to allow fishermen on the east and west side of the Pamlico Sound equal opportunity to participate in the fall pound net fishery.
- Over the last 5 years, setting pound nets along Ocracoke and Hatteras have been delayed due to hurricanes and until mid Oct. the catch is primarily summer species like, spade, butterfish and pompano.
- To make setting pound nets economically feasible, pound net fishermen need a 5-week season starting Oct. 1 and ends the first week of Nov. It takes on average two weeks for the owner to recover expenses. That leaves about 2-3 weeks for the owner and crew to make a profit for the months of work it took to mend and set the gear.

Ocracoke Seafood Company is recognized as one of Golden Leaf's most successful projects in eastern NC and has been studied by multiple national organization and the Food and Agriculture Organization of the

United Nations for its unique fishermen owned business model. Ocracoke Seafood Company seafood is shipped throughout NC (especially Raleigh) and is recognized by companies and tourists who purchase its seafood as one of the best examples of fresh, local NC seafood! Amendment 2 and the current NCDMF recommendations to the NCMFC place all the hard work to rebuild the "Fish House" over the last 12 years in dire economic jeopardy. NCDMF and the NCMFC need to find a compromise that will rebuild the southern flounder stocks and end overfishing but not destroy fishing families, the seafood infrastructure needed to get seafood to market and communities that depend on fishing revenue.

Thank you for your time and consideration of our viewpoints.

Sincerely,



Hardy Plyler

Ocracoke Seafood Company Manager

Public comment against Southern Flounder Amendment 2 and NCDMF recommendation to NCMFC

Thank you for the opportunity for Soundwaves Seafood Company to submit comment against Southern Flounder Amendment 2 and the NCDMF recommendation to cut southern flounder harvest by 62% in 2019 and 72% in 2020. Soundwaves Seafood is a 20-year-old seafood company based on Ocracoke Island. The company is owned by David and Amy Hilton and employs a full time deck hand. Because the comment section in the online submittal portal is so limited, we felt compelled to send in written comments that describe in detail the devastating economic effects the NCDMF recommendation to the NCMFC will have on our business, Ocracoke Seafood Company, Ocracoke's fishing families and availability of fresh seafood to Ocracoke citizens and tourists.

Pound nets are the primary gear used by David Hilton to catch fish throughout the year. He sets up to 3 summer pound nets and up to 5 fall pounds. Pound nets are recognized as one of the most ecologically responsible forms of fishing in NC and provide some of the highest quality seafood that is harvested in NC. Even the recreational community have recognized the value of pound nets as a type of fishing gear that should be preserved.

Each pound net and corresponding lead is built by hand and it takes two vessels to fish and set the gear. A low estimate of money invested in the nets and vessels would be \$40,000 and that does not take into account the cost to establish the sets (stakes, rope, time and fuel). Full time pound net fishermen are becoming rare because of the cost to set gear, hard to find quality deckhands, regulations and effects of hurricanes. The fall pound net season is approximately 60% of Soundwaves Seafood Company's annual gross income. The cost to maintain vessels, repair gear, pay a deckhand and buy supplies is 70% of the annual gross. NCDMF's recommendation of a 62% reduction in flounder harvest and a Oct. 17th closure of the flounder season in 2019 makes it unprofitable for a deckhand to work full time, owner time to recover expenses and make some profit. It also denies pound net fishermen a chance to harvest important by catch like sheepshead, pompano and black drum. The current recommendation will destroy Soundwaves Seafood Company's ability to stay profitable.

Soundwaves Seafood Company supports the Southern Flounder AC recommendation of a 31% reduction in flounder harvest in 2019 and a 52% reduction in 2020. The Southern Flounder AC recommendation was developed through significant debate of the data and multi stakeholder input. It gives commercial fishermen one year to adjust their business to cutbacks and provides some season that might keep some portion of the pound net fishery operational. Attrition in the pound net fishery after 2019 is going to be significant which makes NCDMF's estimate of landings, fishing effort, escapement and bycatch mortality after 2019 at best overly conservative. Furthermore, the average age of a NC commercial fishermen is approaching the mid 50's and they own most of the pound net crews which means the capital and experience in the fishery is going to retire or move into other fisheries that are already stressed (crabs or gillnets).

David Hilton has worked with the NCDMF by serving on the original Sea Turtle Advisory Committee and was appointed a Commissioner to the NCMFC representing industry. He has worked alongside Hardy Plyler for 18 years to bring recommendations from Ocracoke fishermen (OWWA) and Ocracoke Seafood Company to the NCDMF to help craft compromises that protect the resource and keep fishing profitable. The current recommendation of a closure on Oct. 17th unfairly impacts pound net fishermen

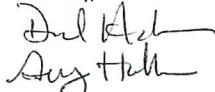
on the east side of the Pamlico Sound (Central Region). The NCDMF knows that pound nets are being set later each year due to late hurricanes and warm conditions that delay the flounder migration. The current recommendation is not equitable to all fishermen in the Central Region.

Soundwaves Seafood Company would like to offer the following recommendations:

- The Central Region is huge and diverse when it comes to how and when flounders are harvested. It is imperative that the NCDMF split the Central Region into two sub regions to allow fishermen on the east and west side of the Pamlico Sound equal opportunity to participate in the fall pound net fishery.
- Over the last 5 years, setting pound nets along Ocracoke and Hatteras have been delayed due to hurricanes and until mid Oct. the catch is primarily summer species like, spade, butterfish and pompano.
- To make setting pound nets economically feasible, pound net fishermen need a 5-week season starting Oct. 1 and ends the first week of Nov. It takes on average two weeks for the owner to recover expenses. That leaves about 2-3 weeks for the owner and crew to make a profit for the months of work it took to mend and set the gear.

Thank you for the opportunity to submit public comments and consideration of our viewpoints.

Sincerely,



David and Amy Hilton

Soundwaves Seafood Company owners



May 27, 2019

To: NCDMF and NCMFC regarding Amendment 2 of Southern Flounder FMP

Subject: Public comment against Amendment 2 of Southern Flounder FMP

The Ocracoke Working Watermen's Association (OWWA) would like to submit public comment stating it is against Amendment 2, NCDMF's recommendation for a 62% reduction in southern flounder harvest in 2019 and a 72% reduction in 2020. Implementing this level of reduction in 2019 will not allow any transition time for fishermen who harvest flounder time to evolve their fishing businesses. Furthermore, Ocracoke pound net fishermen will not have a chance to recover costs to set their pound nets with a Oct. 17th closure due to late season hurricanes and late summer warm water conditions that now extend into middle Oct. The NCDMF's recommendation allows early season fisheries, like river gillnet fishery, time to operate but allows no season for pound net fishermen in Ocracoke and Hatteras. Very unfair to all pound net fishermen who live in the Central region on east side of the Pamlico Sound.

Ocracoke fishermen support the extensive work and input the Southern Flounder AC has provided the NCDMF and their recommendation for a 31% reduction in 2019 and a 52% reduction in 2020. This recommendation stops overfishing in 2 years and provides fishermen a window to evaluate their businesses, opportunity to use up supplies already purchased and make adjustments. We believe the attrition rate of fishermen after 2019 will be so significant that the reduction in harvest in 2020 will likely exceed 52%. Because of the attrition, the rebuilding of the stock has a much greater chance to rebuild in the 10-year timeframe than what is being modeled by the NCDMF and escapement will be higher than predicted.

Ocracoke fishermen have transitioned from the large mesh gillnet fishery to primarily a fall pound net fishery. A significant portion of the income received from pound nets is recycled directly back into the Ocracoke economy. Employment in the winter is almost nonexistent so fall fishing income is critical to families being able to pay taxes, buy food, make repairs to gear and pay for health care. The NCDMF recommendation will cause havoc to the Ocracoke economy. The Southern Flounder AC recommendation will not solve all the issues that cutbacks are going to cause but will allow one season for Ocracoke's fishermen to adjust their business models and family budgets.

Pound nets are the keystone gear that provides fish for the fall tourist season on Ocracoke. Every restaurant on Ocracoke has a local fishermen dealer who supplies them with fish by harvesting not only flounder but sheepshead and black drum. By forcing pound nets out of the water on Oct. 17th, access to fall species will be virtually nonexistent and will have a devastating impact on Ocracoke Seafood Company's retail and wholesale businesses, Ocracoke's tourism revenue and Hyde County's sales tax revenue.

OWWA encourages the NCDMF and NCMFC to propose measures that will produce long-term benefits to the Southern Flounder stock, but recognize that coastal communities and businesses need to stay economically viable.

Thank you,

Hardy Plyler

Hardy Plyler
Vince O'Neal
Bill Evans
Farris O'Neal
David Hilton
Ernest Dosier
Erick O'Neal
Rex O'Neal
James B. Gaskill
Morty Gaskill
Wade Austin
Steve Wilson
Jesse Spencer
Danny Worsley
Andy O'Neal
John Ferrara
Jerry Lukefahr
Gene Ballance
Fletcher O'Neal
David O'Neal
Lewis O'Neal
Earl Gaskins
Kenneth Tillet
John Paul
Monroe Gaskill
Robbie Lewis
Arlene Burleigh
Jimmy O'Neal
Ikey O'Neal
R.T. O'Neal
Albert O'Neal
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